



December 28, 2000

Ms. D'ann Nichols Drennan
Taylor, Olson, Adkins, Sralla & Elam
500 Throckmorton Street
3400 Bank One Tower
Fort Worth, Texas 76102-3821

OR2000-4861

Dear Ms. Drennan:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 142701.

The City of Haltom City (the "city") received a request for the names and addresses of all persons recently sent a citizen survey questionnaire. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

As a preliminary matter, we address certain procedural matters. Although you submitted to this office a list of the names and addresses of 147 questionnaire recipients, you state that the city has released this list to the requestor. The city has not submitted to our office the actual information at issue, the addresses of 63 other questionnaire recipients. Section 552.301 requires the city to submit to this office copies of the information at issue or a representative sample of the information if it is voluminous. When a governmental body fails to comply with the procedural requirements of section 552.301, the information requested is presumed to be public. Gov't Code § 552.302. The presumption of openness is overcome if the information is confidential by law or if the release of the information would implicate a third party's privacy or property interests. *See* Open Records Decision No. 150 (1978).

Section 552.101 excepts from required public disclosure information that is made confidential by law, including information made confidential by statute. You contend that

the addresses of approximately 63 questionnaire recipients are made confidential by section 182.052(a) of the Utilities Code. Section 182.052(a) reads as follows:

(a) Except as provided by Section 182.054, a government-operated utility may not disclose personal information in a customer's account record if the customer requests that the government-operated utility keep the information confidential.

"Personal information" includes, among other things, an individual's address. Util. Code § 182.051(4). You argue that, because the city obtained the addresses from the city's utility records, and because the individuals requested that the city utility keep the personal information confidential, the requested addresses are confidential pursuant to section 182.052(a). We agree. The exceptions to confidentiality listed in section 182.054 do not appear to be applicable in this case. Consequently, the city must not release the addresses to the requestor in accordance with section 552.101 of the Government Code.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

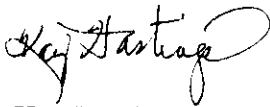
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Kay Hastings
Assistant Attorney General
Open Records Division

KHH/seg

Ref: ID# 142701

Encl. Submitted documents

cc: Mr. Tom Quinones
5031 Broadway Avenue
Haltom City, Texas 76117
(w/o enclosures)